

Northwest National Fire Plan Project Design and Consultation Process

Frequently Asked Questions

Criteria

Q1 -The criteria developed for the National Fire Plan Project Design and Consultation Process are specifically for National Fire Plan activities. Will there be additional programs (e.g., grazing, timber sales, recreation) added to this process?

*The Agency Executives decided in June 2001, to confine the application of the Process to National Fire Plan projects prior to recommending its use for consultation on other projects. However, they recognize that some areas may be able to expand the use of the process, and, encourage doing so if there is **local** interagency agreement. The list of activities included in the National Fire Plan Project Design and Consultation Process already is very broad and includes elements of grazing, timber, and recreation.*

Q2 - Are there restrictions to using the National Fire Plan Project Design and Consultation Process particularly if a given species is not part of the process (no developed criteria for that species)?

The National Fire Plan Project Design and Consultation Process can be useful even for projects that include species not covered in the criteria development. For example, you can use it effectively if a project you are working on has five listed species, but only four of those had criteria developed for them through the National Fire Plan Project Design and Consultation Process in one of the following two ways. In both cases, the documentation would need to be discussed and agreed to by the interagency team (Level 1 Team). The Level 1 Team or equivalent interagency group would agree to documentation required during this type of consultation process.

First, you can, as an interagency team, develop local criteria for the fifth (no criteria) species for those Activity Types, Activity Components, or Work Elements included in the project. While this may sound like a large workload, these could be very specific to the project. Mitigation measures or project modifications designed to reduce the effect to Not Likely To Adversely Affect (NLAA) would be the criteria. For elements that were NLAA as described, the rationale column could be used to describe the reasons for the determination. This information could be recorded on the Criteria Application Worksheet in the same manner as with the other species and summarized on the Consultation Summary Worksheet.

Alternately, you can describe the effects to the fifth (no criteria) species in your normal consultation process - narrative discussion of the rationale for the determination. For ease in use, we recommend you address each Activity Type, Activity Component, and Work Element identified in the project as with the other species. In essence you are writing a narrative form of

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the rationale from the criteria. Even in this case, we recommend using the Consultation Summary Worksheet to compile the final summary of effects for all species. At this point, the consultation could proceed through the normal National Fire Plan Project Design and Consultation Process.

The 14-day commitment for the letter of concurrence would not apply to either case above, but either approach should make concurrence timelier.

Q3 - How do the criteria take into account the different stream orders and the current conditions of the watershed where activities are to occur? How is this information captured in the worksheets?

The salmonid criteria were developed for five types of conditions (or locations on the landscape) that may or may not be exclusive of one another. "Watersheds" are defined as 5th Field Hydrologic Unit Code (HUC) for all anadromous salmonids and 6th Field HUC for all non-anadromous salmonids (see Salmonid Criteria – Instructions; Pages 2-4). The criteria were designed to be consistent with the Matrix of Pathways and Indicators (NMFS 1998). The Matrix would be the place to describe current conditions of the watershed as well as effects of proposed actions. This Matrix would then be attached to the National Fire Plan Consultation package, along with the required worksheets. All of this information tiers to the requirements of the PACFISH (Interim Strategies For Managing Anadromous Fish-Producing Watersheds in Eastern Oregon and Washington, Idaho, and Portions of California)/INFISH (Interim Strategies For Managing Fish-Producing Watersheds in Eastern Oregon and Washington, Idaho, Western Montana, and Portions of Nevada) standards and RMOs for current conditions.

Q4 - Are effects pathways for aquatic habitat elements only or do they include adjacent terrestrial habitat?

All terrestrial and aquatic species have effects pathways associated with each of the criteria. These effects pathways tie the identified criteria back to the potential effect that the project may have on the species. Effects pathways for aquatic habitat elements include an analysis of the effects of activities on adjacent riparian habitats. If there are both terrestrial and aquatic Endangered Species Act (ESA) listed species present within the action area, then the analysis of effects will include separate analysis for each species. The criteria were designed to minimize the effects of the project on this particular aspect of the species habitat requirements.

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Q5 - This Process is limited by the species that have been included. Will there be additional criteria developed for new species, including C3 and plant species?

There is the possibility that criteria will be developed for other species. All species were chosen based on one or more of the following factors:

- 1. Species that are widely distributed within the area covered by the Strategy;*
- 2. Species already listed as threatened or endangered under ESA; or*
- 3. Species that are candidate or at-risk species that will benefit from conservation actions associated with typical National Fire Plan projects.*

The current species criteria will be used to evaluate how useful a tool the National Fire Plan Project Design and Consultation Process is (particularly the activity criteria for species conservation) is for project development and ESA consultation. If the species criteria are found to have a broad application and provide a more efficient way to consult on low risk projects, then other species might be added.

Other species already under consideration for inclusion: desert tortoise, desert fishes, black footed ferret, northern spotted owl, Mexican spotted owl, southwest willow flycatcher, spotted frog, yellow billed cuckoo, and northern goshawk.

Q6 - How are Migratory Bird Treaty Act requirements addressed in this Process?

The National Fire Plan Project Design and Consultation Process is intended primarily for ESA Section 7 consultations with the U.S. Fish and Wildlife Service (FWS) and National Marine Fisheries Service (NOAA Fisheries) regarding potential effects of proposed federal actions on threatened and endangered species and/or their critical habitat. National Fire Plan effects determination criteria are encouraged for use with other “species at risk”, such as those protected under the Migratory Bird Treaty Act. However, use of the National Fire Plan Project Design and Consultation Process on non-ESA listed species is not intended to supersede other procedural and legal requirements related to these species. National policy related to the recent court interpretation is still being developed. Updated information can be accessed through the various State and Regional offices of the Bureau of Land Management (BLM) and U.S. Forest Service.

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Q7 - Will the Process address the effects of wildfires?

The effects of wildfires themselves are not consulted on, but rather the fire suppression actions, and the post-fire human activities (Burned Area Emergency Rehabilitation [BAER] actions). The field unit would assess the effects of wildfire during analysis associated with suppression or BAER activities. Although the National Fire Plan Project Design and Consultation Process does not specifically include either of those two elements, many of the actions included in BAER plans are included in these activities, and may be used for BAER consultations.

Q8 - When will the Process include additional elements to assess the effects of prescribed fire?

Unlike wildfires, prescribed fire is considered an Activity Type under this process. The Technical Team and a group of Fire Ecologists and/or Fire Planners have completed the initial work on these criteria. This information and the associated species Effects Determination Criteria will be available by Spring 2003.

Q9 - Does RHCA=RCA=Riparian Reserves?

Riparian Habitat Conservation Areas (RHCA), Riparian Conservation Areas (RCA), and Riparian Reserves are essentially the same with respect to implementation of the National Fire Plan Project Design and Consultation Package. They are simply different names for the riparian area designations from three different planning documents (PACFISH, draft ICBEMP [Interior Columbia Basin Ecosystem Management Project], and Northwest Forest Plan, respectively). Only RHCAs and Riparian Reserves are relevant to National Fire Plan project design and consultation, as ICBEMP was not finalized. Further, National Fire Plan implementation will be almost entirely within the area covered by PACFISH/INFISH, so the prevalent term should be RHCA. For both RHCA and Riparian Reserves, the National Fire Plan Project Design and Consultation Package criteria are the same.

Q10 - Since the National Fire Plan Project Design and Consultation Process does not address Northern Spotted Owl and Survey and Manage issues, how do I deal with them?

In projects where the activities do not fit the current activity descriptions, or where there are no criteria for a particular species, then the normal consultation procedures would be used, and the normal timelines would apply. Standards and guidelines for managing various species may be found in the individual national forests and BLM district's management plans. Also refer

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to supplements to these plans, such as the Northwest Forest Plan (1994) and the Survey and Manage Amendment to the Northwest Forest Plan published in 2001.

Q11 - Is the documentation on activities and criteria in the National Fire Plan Project Design and Consultation Process detailed and robust enough in regard to legal challenges?

Attorneys representing each of the agencies reviewed the entire process, including a mock project write-up, for legal sufficiency in June 2001. No “red flags” were raised by any of the legal reviewers; therefore they and the agency executives felt this Project Design and Consultation Process could meet the test of legal challenges. The ability to withstand legal challenges rests on the action agencies responsibility to ensure proper documentation that their activities meet the effects determination criteria.

National Environmental Policy Act (NEPA)

Q12 - How is the National Fire Plan Project Design and Consultation Process used to help design projects or to screen existing NEPA documents that do not yet have signed decisions?

The land management agencies have the discretion to follow, or not, the National Fire Plan Project Design and Consultation Process. Screening is equivalent to evaluating how well the proposed action fits the Activity Narratives and Effects Determination Criteria. If the unit decides not to screen an unsigned NEPA document that was prepared in previous years (“shelf project”), or if their proposed action does not meet the criteria, they can proceed with the standard Section 7 consultation process. However, if they decide to use the Fire Plan Project Design and Consultation Process, the basic steps would be the same as in conducting a consultation:

- 1) determine the species potentially affected;*
- 2) determine the Activity Types, Activity Components, and Work Elements associated with the project;*
- 3) either, (1) use the criteria to design and develop the project proposal, or (2) compare the proposed action in the NEPA document or during project planning to the criteria, identify any conflicts in the proposed direction, and determine options for resolution; and*
- 4) document the process (in this case using the Project Tracking Worksheet/NEPA-ESA Crosswalk)*

During project design, the following options may be applied if any conflicts between the proposed project and the Effects Determination Criteria are identified:

- Redesign or adjust the project to meet the Effects Determination Criteria*
- Add specific Effects Determination Criteria as mitigation measures*

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-Drop parts of the project that are inconsistent with the criteria

The National Fire Plan Project Design and Consultation Process can also be used to evaluate and modify projects not otherwise meeting the criteria to help reduce the amount of analysis and discussion during the Level 1 or equivalent interagency group process and subsequent consultation process.

Q13 - What are the benefits of using the National Fire Plan Project Design and Consultation Process for screening NEPA documents?

This Process was designed to screen or design projects or to use as a tool to develop biological analyses, which are a key part of ESA determination and documentation. Screening is equivalent to evaluating how well the proposed action fits the Activity Narratives and Effects Determination Criteria. If a biological analysis is consistent with Effects Determination Criteria, and concludes with a Not Likely to Adversely Affect determination for all listed species, then ESA consultation will conclude with expedited responses from FWS and NOAA Fisheries (14 days if this process is used and all requirements identified within this process are strictly followed). This shortened timeframe for consultation will allow quicker implementation of National Fire Plan projects responses. It may be useful for an agency to also screen entire NEPA documents using the National Fire Plan criteria to ensure that other effects analysis sections (hydrology, soils, silviculture, etc) are consistent with the effects determinations in the applicable Biological Assessment. If these sections are also consistent, then less time will be spent in the Interdisciplinary Team process. The criteria are consistent with “Best Management Practices” and do not represent extraordinary requirements.

Documentation

Q14 - What is the “biological analysis” process for National Fire Plan projects using the National Fire Plan Project Design and Consultation Process? Does this Process supplement or replace the existing Biological Evaluation/Biological Assessment format requirements?

Chapter 2 of the Project Design and Consultation Process outlines the “biological analysis” process to be used by the agencies. The general instructions for use are:

Step 1: Determine species potentially affected by the project

Step 2: Determine the Activity Types associated with the project

Step 3: Apply the criteria screens and document the results

Step 4: Submit documentation to Level 1 or equivalent interagency group for approval

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The project design and consultation process used for National Fire Plan projects has been modified from that currently being used by the land management agencies. This modified biological analysis process was reviewed by the Executives of each agency and also received legal review. This modified biological analysis process has been approved for use for National Fire Plan projects only and, therefore, replaces the existing Biological Evaluation/Biological Assessment format. There may be additional information needed for certain species (i.e. Matrix of Pathways and Indicators for salmonid species; Lynx Analysis Unit mapping, as requested by the Level 1 team or equivalent interagency group).

For this expedited consultation process for National Fire Plan projects in the Northwest, the following written documentation is required and will constitute a complete consultation package:

- Completed Consultation Summary Worksheet that contains all components found in a standard Biological Assessment to include: project description, location, baseline, cumulative effects, and species by species determinations.*
- Completed Criteria Application Worksheets, which includes project effects descriptions.*
- References (as needed).*

The package must also include a letter requesting concurrence, identifying that the project is funded under the National Fire Plan and that it meets all applicable criteria to receive the 14-day commitment. A full example of a biological analysis and concurrence letter can be found on the website. A Biological Assessment is not required for expedited (14-day) consultations.

Timeline

Q15 - How can the consulting agencies meet the 14-day turnaround time on fire projects with current staff, given prep time, review and edits time, and signing authority?

The FWS and NOAA Fisheries executives signed the interagency “roll-out” letter that agrees to the 14-day turnaround time for National Fire Plan actions adhering to the National Fire Plan consultation requirements. By following these requirements, the consultation package submitted to either FWS or NOAA Fisheries will have sufficient documentation of project effects, should already have been reviewed through the Level 1 or other interagency process, and the FWS or NOAA Fisheries consulting biologists should already be in preliminary agreement with the effects determination. If the projects are consistent with the activity type descriptions and incorporate all Effects Determination Criteria, as written, and the projects conclude with Not Likely to Adversely Affect determinations (informal consultation) for all species, ESA consultation will conclude with an expedited response from the appropriate consulting agency.

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The FWS and NOAA Fisheries state offices and, in some cases, field offices have signing authority that will enable meeting this timeline.

Q16 - How can the consulting agencies meet the 14-day turnaround time on fire projects if the projects, for various reasons, come in incomplete?

The clock does not start until the project consultation package is complete, has been through interagency review and has reached preliminary agreement, and is in the office of the appropriate consulting agency. Therefore, if some information is missing on a project submission to the consulting agency, then the 14-day concurrence period starts from the day that the missing information is received by the consulting agency.

Q17 - The time required for concurrence on Not Likely to Adversely Affect determinations is 14 days when using the National Fire Plan Project Design and Consultation Process. What other benefits exist to using this process, other than just saving 16 days on a Not Likely to Adversely Affect determination, which usually requires 30 days? Besides, low impact (i.e., Not Likely to Adversely Affect) Biological Analyses have always been easy to write.

Several additional benefits to using this process:

- 1. Time savings from using the Process will occur mainly in the typically most time-consuming phase of ESA consultation, where a developed action is brought to Level 1 Teams (or equivalent interagency group) and additional information or changes to the action are requested. Iterative project design changes and information requests from the Level 1 Teams are not uncommon under the standard consultation process, and these can consume months or years of time depending on the complexity and stage of the NEPA document. If, however, actions are designed or screened/modified up front to meet National Fire Plan criteria, the Level 1 Teams will mainly verify that the criteria have been met and the biological analysis is complete, and then provide preliminary agreement with the Not Likely to Adversely Affect determination, which will be followed with transmittal of the biological analysis and a concurrence letter within 14 days.*
- 2. The use of the criteria establishes consistent effects determinations across all units and agencies, relative to National Fire Plan projects, for each of the species across the footprint of this process.*
- 3. The 14-day turnaround allows for quicker implementation of National Fire Plan project than is possible under the existing streamlining timeframes.*

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4. *Effects to species, and/or their habitats, are minimized through application during the planning process. Successful consultation using this approach should create an incentive to use these criteria in planning and avoid unnecessary adverse affects to these species.*

General

Q18 - What agencies and which regions have signed agreements for using and implementing the National Fire Plan Project Design and Consultation Process?

Agency Executives from the Forest Service, BLM, NOAA Fisheries), and FWS signed a rollout letter dated February 8, 2002 that endorses this process. States covered under this agreement include Washington, Oregon, Idaho, Montana, Utah, Nevada, and Wyoming west of the Continental Divide.

Q19 - The National Fire Plan Project Design and Consultation Process could certainly be used on a project-by-project basis. For example, how could this process be incorporated into a programmatic consultation on a watershed scale?

If the programmatic analysis meets all the criteria for using the National Fire Plan Project Design and Consultation Process (e.g., National Fire Plan activity, meets species criteria, meets activity descriptions), then programmatic consultations can be done under this process. This process can provide a good foundation for development of a programmatic consultation, but may need to be supplemented by additional local information to complete consultation on a program of work, as determined by the Level 1 Team or equivalent interagency group. Realistically, concurrence on programmatic would likely not be completed within 14 days. If programmatic include activities not associated with the National Fire Plan, use of the criteria would be subject to interagency agreement. For instance, a Forest may submit its entire trails program for informal consultation, having documented that the program incorporates the National Fire Plan criteria. If there are aspects of a particular Forest's trails program that differ from the criteria or that include activities not addressed by the criteria, then this information would also be worked through the Level 1 Team or equivalent interagency group. This would ensure conservation measures are sufficient and reflected in a biological analysis on those aspects of the program not covered by the National Fire Plan process. Consultation would then be completed on the Forest's trails program as a whole, including documentation from the National Fire Plan process and regular consultation.

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Q20 - How do state and other non-Federal projects fit into the National Fire Plan Project Design and Consultation Process?

The Project Design and Consultation Process deals with Federal actions, and thus may include some state and non-Federal activities for which there is a Federal nexus.

For state or other non-Federal actions that do not have a Federal nexus, the criteria could serve as guidance on the types of conservation measures the state could consider for specific activities. Since the criteria were designed to identify actions and conditions that would typically be “no effect” or “not likely to adversely effect”, projects that adhere to the criteria will not usually cause “take”. Adherence to the criteria by non-Federal entities precludes the need for a Section 10 incidental take permit in normal circumstances. However, to ensure that the State or other non-Federal actions are consistent with the criteria AND rationale, the user could follow the same process as Federal agencies and meet with the regulatory agency to reach agreement.

Q21 - There are typically two agencies involved in a Section 7 consultation, the action agency and the consulting (regulatory) agency. What is each of their roles in using the National Fire Plan Project Design and Consultation Process? Who fills out the worksheets and forms?

An Interagency Streamlining Team (Level 1 or equivalent) is a required part of this process. This Team can assist with the project screening for application of the Effects Determination Criteria. It is the ultimate responsibility of the land management agency biologists to complete all required consultation documentation for submittal to the consulting agencies. It is appropriate and acceptable to bring these draft worksheets and forms to the Level 1 meeting for comment from the consulting agency biologists.

Q22 - My Field Office Manager is not familiar with the National Fire Plan Project Design and Consultation Process. Do I need his/her approval to use this process?

The agencies' Regional Executives signed the National Fire Plan Project Design and Consultation Process roll-out letter and endorsed using the process. A joint agency “roll-out” letter was signed in February 2002, outlining the expectations of each agency relative to the implementation of the National Fire Plan Project Design and Consultation Process. However, it is a new process, and the activity criteria are substantially detailed, and it will take time for line officers and other agency managers to familiarize themselves with this process and its potential benefits. If implementation of this process is still in question, you should contact your agency

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representative to the Management Team for the National Fire Plan Project Design and Consultation Process. The Agency Executives have “strongly recommended” the use of this process to their managers. While line officers and other managers have discretion, within their authorities, on whether or not the process will be used for consultation on a particular project, it is the intent of all the agencies to begin using this process where appropriate.

Q23 - The National Fire Plan Project Design and Consultation Process screens out No Effect and Not Likely to Adversely Affect determinations. Could this Process eventually be designed to evaluate Likely to Adversely Affect determinations?

The Process was developed to identify No Effect and Not Likely to Adversely Affect projects to help expedite consultation between the land management and consulting agencies on low-impact, low risk projects, freeing staff time for the more complex projects. Many of the projects that are Likely to Adversely Affect require more site-specific consideration by local biologists and Level 1 Teams (or equivalent interagency group) during the planning and implementation phase. It would be feasible to develop some common conservation measures associated with these types of projects, however, it would be unrealistic to expect these measures to be all inclusive for each of these situations. By establishing consistent approaches to the No Effect and Not Likely to Adversely Affect projects, the biologists should have more time to work through the more complex project consultations.

One of the options being considered by the Management Team for future development are criteria for adverse effects, especially activities that may have short term adverse effects, but long term beneficial effects.

Q24 - Does the National Fire Plan Project Design and Consultation Process focus just on Wildland Urban Interface priorities? Why not?

The National Fire Plan does not entirely focus on Wildland Urban Interface priorities. Those priorities were major factor in the allocation of money and creation of the National Fire Plan, but are only one component of the National Fire Plan. Fuel reduction (not limited to urban interface areas), fire-related activities, and restoration of burned areas are other important components that make up this process. The broad need to restore forest and watershed health, e.g., by managing fuel loading and restoration of burned areas, extends beyond urban interfaces and is a fundamental element of the National Fire Plan.

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Q25 - What is the role of the Level 1 Team in the National Fire Plan Project Design and Consultation Process?

The Level 1 Team or an equivalent interagency team is required to validate the results of the analysis prior to submission of the consultation package to the consulting agency. The Team should review the following components that reflect information needs normally found in sufficient biological analyses: 1) the project description; 2) the species covered; 3) Activity Types defined; 4) results by species and Activity Type, Activity Component, or Work Element (Criteria Application Worksheets); 5) Consultation Summary Worksheet; and 6) adequacy of documentation information. The Teams must agree with the individual conclusions, final effects determination (not likely to adversely affect any listed species), and adequacy of the information before submission for consultation for the 14-day expedited letter of concurrence.

Q26 - How does the National Fire Plan Project Design and Consultation Process dovetail with existing standards and guidelines such as PACFISH/INFISH, and the Matrix of Pathways and Indicators?

The National Fire Plan Project Design and Consultation Process is designed for use in conjunction with existing standards and guidelines. It should not be viewed as replacing any existing standards and guidelines.

All criteria for salmonids and bull trout are designed to complement and be consistent with National Forest Land and Resource Management Plans (LRMP) and BLM Resource Management Plans (RMP) direction as amended by PACFISH and INFISH. Some LRMP/RMP direction is more restrictive than PACFISH and INFISH and the criteria have been adjusted accordingly.

The Salmonid Team designed the bull trout and salmonid criteria to be consistent with the Matrix. The salmonid criteria were developed for five types of conditions (or locations on the landscape) that may or may not be exclusive of one another. "Watersheds" are defined as 5th Field Hydrologic Unit Code (HUC) for all anadromous salmonids and 6th Field HUC for all non-anadromous salmonids (see Salmonid Criteria – Instructions; Pages 2-4). The Matrix would be the place to describe current conditions of the watershed as well as effects of proposed actions. The field, "Anticipated Final Effect" helps facilitate effects documentation made in the Matrix checklist. The effects and rationale in the salmonids criteria are also very useful in preparing the "Dichotomous Key For Making ESA Effects Determinations." Criteria and/or mitigations are not used in the Matrix of Pathways and Indicators. This Matrix would then be attached to the National Fire Plan Consultation package, along with the required worksheets. All of this information tiers to the requirements of the PACFISH/INFISH standards and RMOs for current conditions.